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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/653,758 | 09/03/2003 | Richard Wynn II | 268-02 | 3677 |
| 2746 | 7590 | 03/11/2005 | | |
| WILLIAM H. EILBERG THREE BALA PLAZA SUITE 501 WEST BALA CYNWYD, PA 19004 | | | | EXAMINER BUSHEY, CHARLES S |
| | | | | ART UNIT 1724 PAPER NUMBER |

DATE MAILED: 03/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | |
|------------------------------|-----------------|--------------|
| Office Action Summary | Application No. | Applicant(s) |
| | 10/653,758 | WYNN |
| | Examiner | Art Unit |
| | Scott Bushey | 1724 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 25 January 2005.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-20 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 1-20 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claims contain subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor, at the time the application was filed, had possession of the claimed invention. The addition of the language by applicant that requires either that the area above the perforated sheet is “free of any barrier” or “substantially unobstructed” constitutes the addition of new matter to the application. While the specification, and claims as originally filed, fail to include such language as has been added to the claims, and in view of the fact that the specification and original and current claims actually teach obstructions in the outlet area above the perforated sheet in the form of wave breaks, the independent claims as now present in the application are not commensurate in scope with either the explicit original disclosure of the invention or the apparent intent of the original invention. This is a new matter rejection.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-3, 5, 8-10, 12-15, and 17-20 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Butz (Figs 1 and 2; col. 2, lines 59-72; col. 3, lines 14-15).

Applicant should note that tubes (6,7) inherently perform wave break action below the perforated plate, while the upstanding wall of channels (9) inherently perform wave break action above the perforated plate (5) and thus the wave break structures as required by instant claims 8, 9, and 13-15 are considered to be anticipated by the disclosure of Butz. Furthermore, applicant should note that the upstanding walls of channels (9) do not in any way obstruct the perforated portions of the perforated sheet (5).

5. Claims 12, and 17-20 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Choi et al (Figs. 2-4b; col. 5, lines 23-51).

Applicant should note that the downcomer weirs (152) do not in any way obstruct the perforated portions of the perforated sheet (110).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 4, 6, 7, 11, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Butz taken together with Fetters et al.

Butz (Figs 1 and 2; col. 2, lines 59-72; col. 3, lines 14-15) substantially disclose applicant's invention as recited by instant claims 4, 6, 7, 11, and 16, except for the gas being pushed through the apparatus by the blower, as recited by instant claim 4, the inlet channel

having an inlet ramp forming a maximum constriction at the point of connection with the perforated plate, as recited by instant claims 6 and 7, and the silencer baffle located below the outlet opening, as recited by instant claims 11 and 16.

Fetters et al (Figs. 1 and 2; page 1, lines 42-47) disclose a gas cleaning apparatus similar in construction to that of Butz, wherein the gas is pushed through the apparatus by the blower, as recited by instant claim 4, the inlet channel has an inlet ramp forming a maximum constriction at the point of connection with the perforated plate, as recited by instant claims 6 and 7, and the peripheral portion of the baffle (16) adjacent the outlet openings (17) serves to reduce noise from the exhaust outlets and thus such suggests silencer baffle structure located below the outlet openings, as recited by instant claims 11 and 16. It would have been obvious to an artisan at the time of the invention, to modify the apparatus as taught by Butz to change the position of the blower from downstream to upstream so as to insure a consistent inlet velocity, to provide an inlet channel constriction at the perforated plate so as to induce inlet flow by venturi effect, and to provide a silencer baffle adjacent the outlet to reduce noise pollution, all in view of Fetters et al, since such modifications would each lend themselves to increasing the efficiency of the apparatus, while reducing noise output in a manner well understood within the art.

8. Claims 11 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Butz taken together with the brochure as submitted by applicant, entitled "WetAer Wave Wet Dust Collectors.

Butz as applied above substantially discloses applicant's invention as recited by instant claims 11 and 16, except for the silencer baffle located below the outlet opening.

The brochure as submitted by applicant, entitled "WetAer Wave Wet Dust Collectors illustrates an exhaust outlet baffle, which serves to control the outlet flow volume and controls the noise levels associated therewith. Wherein government regulatory requirements mandate noise reduction means for high volume gas flow exhausts to limit noise pollution, it would have been obvious to an artisan at the time of the invention, to modify the outlet of Butz to include a silencer baffle in association therewith, in view of the secondary reference teaching, since such would insure compliance of the apparatus and operation thereof with all federal noise abatement regulations.

Response to Arguments

9. Applicant's arguments with respect to claims 1-20 have been considered but are moot in view of the new grounds of rejection. Applicant should also note that the arguments relative to the alleged obstructions in the outlet areas above the perforated plates of the applied references are not found to be persuasive, since as stated above in the rejection statements, none of the alleged obstructions block any of the perforated areas of the plates of the respective references. Furthermore, in view of applicant's recitations within the instant claims pertaining to wave breaks located above the perforated plates, it is apparent that applicant's outlet area is indeed far more obstructed than can ever be alleged of any of the applied prior art.

Conclusion

10. Applicant's amendment necessitated the new grounds of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott Bushey whose telephone number is (571) 272-1153. The examiner can normally be reached on Monday-Thursday 6:30AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duane Smith can be reached on (571) 272-1166. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Scott Bushey
Primary Examiner
Art Unit 1724



3-10-05